

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CAPRICE ASSING as mother and natural
guardian of infant R.A.,

Plaintiff,

-against-

Police Officers JOHN and JANE DOE 1 through
10, individually and in their official capacities (the
names John and Jane Doe being fictitious, as the
true names are presently unknown),

Defendants.
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COMPLAINT

Jury Trial Demanded

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331 and 1343.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff R.A. is a resident of Kings County in the City and State of New York.

7. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

8. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

9. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

10. At approximately 10:00 p.m. on July 31, 2012, plaintiff and another individual were lawfully backseat passengers in a for-hire vehicle in the vicinity of Humboldt Street and Seigel Street in Brooklyn, New York.

11. Defendants pulled the vehicle over.

12. Defendants searched the vehicle including the trunk.

13. Without probable cause or reasonable suspicion to believe he had

committed any crime or offense, defendants removed plaintiff from the vehicle, searched, handcuffed and arrested him.

14. Plaintiff was taken to the 90th Precinct where he was unlawfully strip-searched, fingerprinted and processed.

15. At the precinct the officers falsely informed employees of the Kings County District Attorney's Office that they had observed plaintiff in possession of marijuana.

16. At no point did the officers observe plaintiff in possession of marijuana.

17. Plaintiff was eventually taken to Brooklyn Central Booking.

18. Plaintiff was forced to sleep on the filthy cell floor overnight.

19. On or about August 1, 2012, plaintiff was released from Brooklyn Central Booking without ever appearing before a judge.

20. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, anxiety, embarrassment, humiliation, and damage to his reputation.

FIRST CLAIM
Unlawful Stop and Search

21. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

22. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion.

23. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
False Arrest

24. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

25. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

26. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
Denial Of Constitutional Right To Fair Trial

27. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

28. The individual defendants created false evidence against plaintiff.

29. The individual defendants forwarded false evidence to prosecutors in the Kings County District Attorney's office.

30. In creating false evidence against plaintiff, and in forwarding false information to prosecutors, the individual defendants violated plaintiff's constitutional right to a fair trial under the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution.

31. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
Unlawful Strip Search

32. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

33. The defendants violated the Fourth and Fourteenth Amendments because they unlawfully subjected plaintiff to a strip search without legal justification.

34. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged

FIFTH CLAIM
Failure To Intervene

35. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

36. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent

such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

37. Accordingly, the defendants who failed to intervene violated the Fourth, Fifth And Fourteenth Amendments.

38. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: November 26, 2012
New York, New York

HARVIS WRIGHT
SALEEM & FETT LLP

A handwritten signature in black ink, appearing to read 'Gabriel Harvis', is written over a horizontal line.

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